



**Nursing Home Conditions in Texas:
Many Homes Fail to Meet Federal Standards for Adequate Care**

Prepared for Rep. Ciro D. Rodriguez

**Minority Staff
Special Investigations Division
Committee on Government Reform
U.S. House of Representatives**

October 31, 2000

Table of Contents

Executive Summary	1
A. Methodology	1
B. Findings	2
I. Growing Concerns about Nursing Home Conditions	4
II. Methodology	7
A. Determination of Compliance Status	7
B. Determination of Staffing Levels	9
C. Analysis of State Inspection Reports	10
D. Interpretation of Results	10
III. Health and Safety Violations in Texas Nursing Homes	11
A. Prevalence of Violations	11
B. Prevalence of Violations Causing Actual Harm to Residents	12
C. Most Frequently Cited Violations Causing Actual Harm	12
D. Potential for Underreporting of Violations	13
IV. Texas Reimbursement Rates and Staffing Levels	14
V. Documentation of Violations in State Inspection Reports	15
A. Failure to Prevent or Properly Treat Pressure Sores	17
B. Failure to Provide Adequate Nutrition and Hydration	17
C. Failure to Prevent Falls or Accidents	18
D. Improper Use of Physical and Chemical Restraints	19
E. Failure to Protect Residents from Abuse	20
F. Failure to Provide Proper Medical Care	20
G. Failure to Provide Basic Care	22
H. Failure to Provide Adequate Staffing	23
VI. Conclusion	24

EXECUTIVE SUMMARY

Many families are becoming increasingly concerned about the conditions in nursing homes. Federal law requires that nursing homes “provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.” But recent studies by the U.S. General Accounting Office and others have indicated that many nursing homes fail to meet federal health and safety standards.

To address these growing concerns, Representative Ciro D. Rodriguez asked the minority staff of the Committee on Government Reform to investigate the conditions in nursing homes in the state of Texas. There are 1,230 nursing homes in Texas that accept residents covered by Medicaid or Medicare. These homes serve approximately 86,000 residents. This is the first congressional report to evaluate their compliance with federal nursing home standards.

The report finds that there are serious deficiencies in many of the nursing homes in Texas. Over 80% of the nursing homes in Texas violated federal health and safety standards during recent state inspections. Moreover, over 50% of the nursing homes in Texas had violations that caused actual harm to residents or placed them at risk of death or serious injury.

One of the causes of these deficiencies appears to be the low rate of state Medicaid reimbursement in Texas and the low level of staffing in Texas nursing homes. Texas ranks 44th in the nation in Medicaid reimbursements, 40th in the nation in total nursing home staffing, and 46th in the nation in staffing by registered nurses. Over 90% of the nursing homes in Texas do not meet the preferred minimum staffing levels identified by the U.S. Department of Health and Human Services.

A. Methodology

Under federal law, the U.S. Department of Health and Human Services (HHS) contracts with the states to conduct annual inspections of nursing homes and to investigate nursing home complaints. These inspections assess whether nursing homes are meeting federal standards of care, such as preventing residents from developing pressure sores (commonly known as bed sores), providing sanitary living conditions, and protecting residents from accidents. During the annual inspections, the state inspectors also record the staffing levels in the nursing homes.

This report analyzed the most recent annual inspections of Texas nursing homes. These inspections were conducted from March 1998 to August 2000. In addition, the report examined the results of any complaint investigations conducted during this time period.

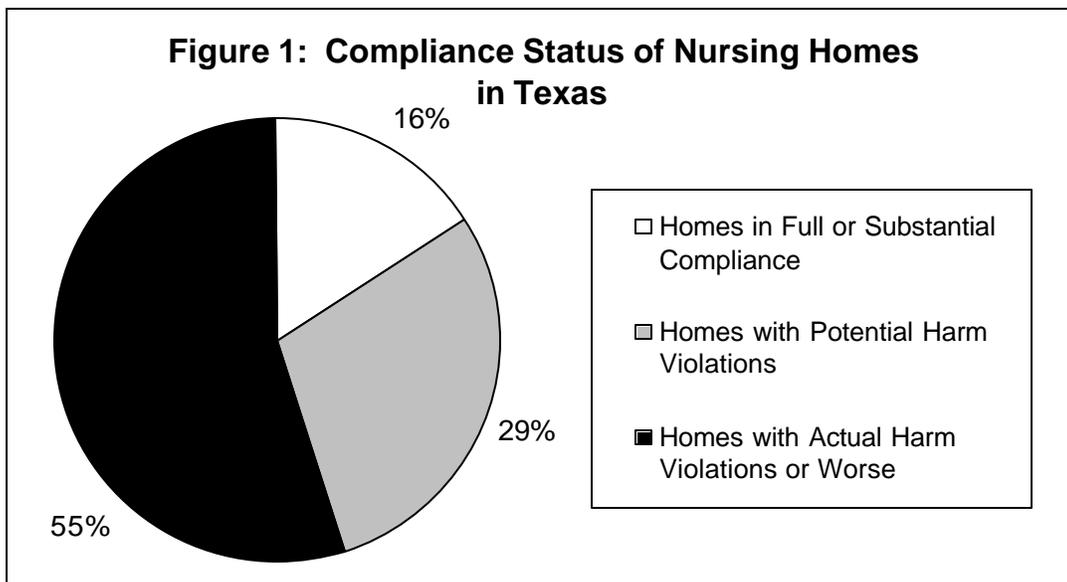
Because this report is based on recent state inspections, the results are representative of current conditions in Texas nursing homes as a whole. However, conditions in individual homes can change. New management or enforcement activities can bring rapid improvement; other changes can lead to sudden deterioration. For this reason, the report should be considered a representative “snapshot” of overall conditions in Texas nursing homes, not an analysis of current conditions in any specific home.

Conditions could be better -- or worse -- at any individual nursing home today than when the most recent inspection was conducted.

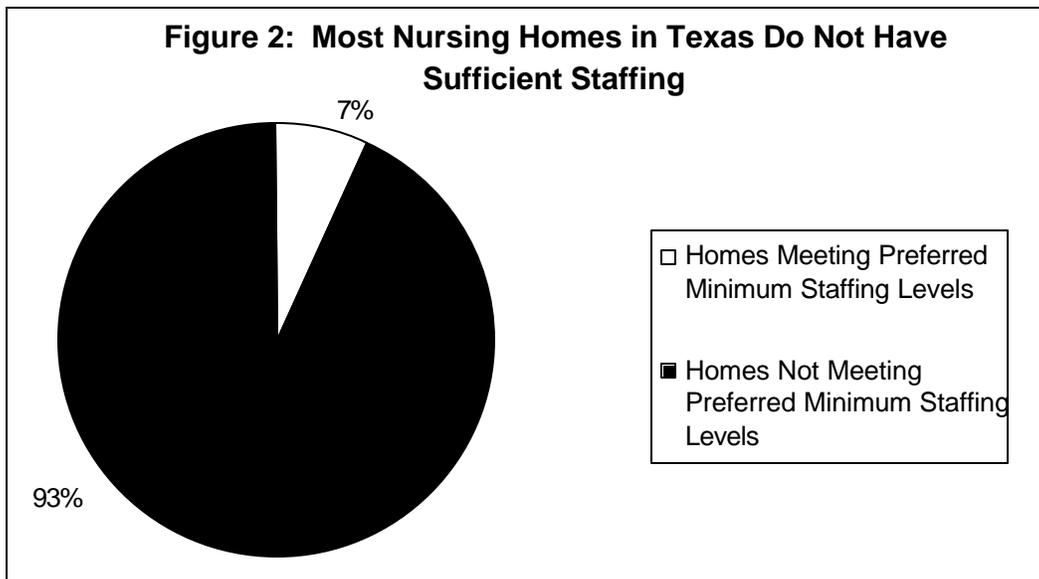
B. Findings

Many nursing homes in Texas violate federal standards governing quality of care. State inspectors consider a nursing home to be in full compliance with federal health and safety standards if no violations are detected during the annual inspection or complaint investigation. They will consider a home to be in “substantial compliance” with federal standards if the violations at the home do not have the potential to cause more than minimal harm. Of the nursing homes in Texas, only 186 homes (16%) were found to be in full or substantial compliance with the federal standards. The other 1,044 nursing homes (84%) had at least one violation with the potential to cause more than minimal harm to residents. On average, each of these 1,044 nursing homes had 12.9 violations of federal quality of care requirements.

Many nursing homes in Texas have violations that cause actual harm to residents. Of the 1,230 nursing homes in Texas, 680 homes (55%) had a violation that caused actual harm to nursing home residents or placed them at risk of death or serious injury (see Figure 1). These violations involved serious problems, such as untreated pressure sores, preventable accidents, and inadequate nutrition and hydration. Over 450 nursing homes in Texas were cited for more than one violation that caused actual harm to residents or had the potential to cause death or serious injury.



Texas pays low reimbursement rates and has low staffing levels in nursing homes. One of the underlying causes of the poor conditions in Texas nursing homes appears to be the low level of reimbursements paid by the state under the Medicaid program and the low level of staffing that the nursing homes are able to afford. Texas currently pays its nursing homes only \$81 a day per resident under the Medicaid program, an amount that places Texas 44th among the 50 states in reimbursement levels. One consequence of the low reimbursement rates is that Texas nursing homes ranked 40th in the nation in total nursing home staffing and 46th in staffing by registered nurses. Over 90% of the nursing homes in Texas do not meet the preferred minimum staffing levels identified by HHS (Figure 2).



An examination of a random sample of nursing homes showed serious care problems. Representatives of nursing homes argue that the “overwhelming majority” of nursing homes meet government standards and that many violations causing actual harm are actually trivial in nature. To assess these claims, this report examined in detail the inspection reports from a random sample of 29 Texas nursing homes cited for actual harm violations and 5 Texas nursing homes cited for multiple, potential-to-harm violations. The inspection reports documented that the actual harm violations cited by state inspectors were for serious neglect and mistreatment of residents, including improper use of restraints, the failure to protect residents from abuse, and medical errors. Moreover, the inspection reports documented many other serious violations that would be of great concern to families, but were not classified as causing actual harm, indicating that serious deficiencies can exist at nursing homes cited for potential-to-harm violations.

I. GROWING CONCERNS ABOUT NURSING HOME CONDITIONS

Increasingly, Americans are facing difficult decisions about nursing homes. The decision to move a loved one into a nursing home raises very real questions about how the resident will be treated at the nursing home. Will the resident receive proper food and medical treatment? Will the resident be assisted by staff with basic daily activities, such as bathing and dressing? Will the resident be able to live out his or her life with dignity and compassion? These are all legitimate concerns -- and they are becoming more common as America ages.

In 1966, there were 19 million Americans 65 years of age and older.¹ That figure has now risen to 34.6 million Americans, or 13% of the population.² In 25 years, the number of Americans aged 65 and older will increase to 62 million, nearly 20% of the population.³

This aging population will increase demands for long-term care. There are currently 1.6 million people living in almost 17,000 nursing homes in the United States.⁴ The Department of Health and Human Services (HHS) has estimated that 43% of all 65 year olds will use a nursing home at some point during their lives.⁵ Of those who do need the services of a nursing home, more than half will require stays of over one year, and over 20% will be in a nursing home for more than five years. The total number of nursing home residents is expected to quadruple from the current 1.6 million to 6.6 million by 2050.⁶

Most nursing homes are run by private for-profit companies. Of the 17,000 nursing homes in the United States, over 11,000 (65%) are operated by for-profit companies. In the 1990s, the nursing home industry witnessed a trend toward consolidation as large national chains bought up smaller chains and

¹Health Care Financing Administration, *Medicare Enrollment Trends, 1966-1998* (available at <http://www.hcfa.gov/stats/enrltrnd.htm>).

²U.S. Census Bureau, *Resident Population Estimates of the United States by Age and Sex: April 1, 1990 to August 1, 1999* (Oct. 1, 1999).

³U.S. Census Bureau, *Resident Population of the United States: Middle Series Projections, 2015 - 2030, by Age and Sex* (March 1996).

⁴Testimony of Rachel Block, Deputy Director of HCFA's Center for Medicaid, before the Senate Special Committee on Aging (June 30, 1999).

⁵HCFA Report to Congress, *Study of Private Accreditation (Deeming) of Nursing Homes, Regulatory Incentives and Non-Regulatory Initiatives, and Effectiveness of the Survey and Certification System*, §1.1 (July 21, 1998).

⁶American Health Care Association, *Facts and Trends: The Nursing Facility Sourcebook*, 5 (1999).

independent homes. The five largest nursing home chains in the United States operated over 2,000 facilities and had revenues of nearly \$14 billion in 1998.⁷

Through the Medicaid and Medicare programs, the federal government is the largest payer of nursing home care. Under the Medicaid program, a jointly funded, federal-state health care program for the needy, all nursing home and related expenses are covered for qualified individuals. Under the Medicare program, a federal program for the elderly and certain disabled persons, skilled nursing services are partially covered for up to 100 days. In 2000, it is projected that federal, state, and local governments will spend \$58.1 billion on nursing home care, of which \$44.9 billion will come from Medicaid payments (\$27.7 billion from the federal government and \$17.2 billion from state governments) and \$11.2 billion from federal Medicare payments. Private expenditures for nursing home care are estimated to be \$36 billion (\$29.2 billion from residents and their families, \$5 billion from insurance policies, and \$1.8 billion from other private funds).⁸ The overwhelming majority of nursing homes in the United States receive funding through either the Medicaid program or the Medicare program, or both.

Under federal law, nursing homes that receive Medicaid or Medicare funds must meet federal standards of care. Prior to 1987, these standards were relatively weak: they focused on a home's ability to provide adequate care, rather than on the level of care actually provided. In 1986, a landmark report by the Institute of Medicine found widespread abuses in nursing homes.⁹ This report, coupled with national concern over substandard conditions, led Congress to pass comprehensive legislation in 1987 establishing new standards for nursing homes. This law required nursing homes to "provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident."¹⁰

Implementing regulations were promulgated by HHS in 1990 and 1995. The 1987 law and the implementing regulations limit the use of physical and chemical restraints on nursing home residents. They require nursing homes to prevent pressure sores, which are painful wounds or bruises caused by pressure

⁷Thomas J. Cole, *Awash in Red Ink*, Albuquerque Journal, A1 (Aug. 3, 1999).

⁸All cost projections come from: HCFA, *Nursing Home Care Expenditures and Average Annual Percent Change, by Source of Funds: Selected Calendar Years 1970-2008* (available at <http://www.hcfa.gov/stats/NHE-Proj/proj1998/tables/table14a.htm>).

⁹Committee on Nursing Home Regulation, Institute of Medicine, *Improving the Quality of Care in Nursing Homes* (1986). The IOM report concluded: "[I]ndividuals who are admitted receive very inadequate -- sometimes shockingly deficient -- care that is likely to hasten the deterioration of their physical, mental, and emotional health. They are also likely to have their rights ignored or violated, and may even be subject to physical abuse." *Id.* at 2-3.

¹⁰42 U.S.C. §1396r(b)(2).

or friction that can become infected. They also establish other safety and health standards for nursing homes, such as requiring that residents are properly cleaned and bathed, receive appropriate medical care, and are supervised to prevent falls and accidents. The regulatory requirements are codified at 42 C.F.R. Part 483.

Recently, investigators have begun to examine whether nursing homes are meeting the requirements of the 1987 law and its implementing regulations. The results have not been encouraging. Certain abusive practices documented by the Institute of Medicine in 1986, such as the improper use of physical restraints and anti-psychotic drugs, have been reduced.¹¹ But health and safety violations appear to be widespread. In a series of 1999 reports, the U.S. General Accounting Office (GAO), an investigative arm of Congress, found that “more than one-fourth of the homes had deficiencies that caused actual harm to residents or placed them at risk of death or serious injury”;¹² that these incidents of actual harm “represented serious care issues ... such as pressure sores, broken bones, severe weight loss, and death”;¹³ and that “[s]erious complaints alleging that nursing home residents are being harmed can remain uninvestigated for weeks or months.”¹⁴

Other researchers have reached similar conclusions. In July 1998, Professor Charlene Harrington of the University of California-San Francisco, a leading nursing home expert, found that the current level of nursing home staffing is “completely inadequate to provide care and supervision.”¹⁵ In March 1999, the inspector general of HHS found an increasing number of serious deficiencies relating to

¹¹The percent of residents in physical restraints dropped from 38% in 1987 to 15% in 1998; the percent of residents being administered anti-psychotic drugs dropped from 33% to 16% during the same time period. Testimony of Michael Hash, Deputy Administrator of HCFA, before the Senate Special Committee on Aging (July 28, 1998). Despite this progress, the improper use of physical and chemical restraints continues to be a problem at some nursing homes, as documented in part V of this report.

¹²GAO, *Nursing Homes: Additional Steps Needed to Strengthen Enforcement of Federal Quality Standards*, 3 (March 1999).

¹³GAO, *Nursing Homes: Proposal to Enhance Oversight of Poorly Performing Homes Has Merit*, 2 (June 1999).

¹⁴GAO, *Nursing Homes: Complaint Investigation Processes Often Inadequate to Protect Residents*, 2 (March 1999).

¹⁵Testimony of Charlene Harrington before the Senate Special Committee on Aging (July 28, 1998).

quality of resident care.¹⁶

Most recently, a report by HHS identified minimum staffing levels below which quality of care in nursing homes may be “seriously impaired.”¹⁷ According to the HHS report, many nursing homes in the United States do not meet these staffing levels. The HHS report found that residents in nursing homes that did not meet these minimum staffing levels were more likely to suffer from serious health problems than residents in nursing homes that met the minimum staffing levels. According to the HHS report, for example, residents in nursing homes with inadequate staffing were almost four times more likely to develop pressure sores and nearly twice as likely to suffer extensive weight loss as residents of nursing homes with higher staffing levels.

In light of the growing concern about nursing home conditions, Rep. Ciro D. Rodriguez asked the minority staff of the Government Reform Committee to investigate the prevalence of health and safety violations in Texas nursing homes. Rep. Rodriguez represents the 28th Congressional District of Texas, which includes part of San Antonio. This report presents the results of this investigation. It is the first congressional report to comprehensively investigate nursing home conditions in the state of Texas.

II. METHODOLOGY

To assess the conditions in Texas nursing homes, this report analyzed three sets of data: (1) the Online Survey, Certification, and Reporting (OSCAR) database maintained by HHS, which contains the results of annual nursing home inspections; (2) the nursing home complaint database maintained by HHS, which contains the results of state complaint investigations; and (3) actual state inspection reports from a random sample of 34 nursing homes.

A. Determination of Compliance Status

Data on the compliance status of nursing homes in Texas comes from the OSCAR database and the complaint database. These databases are compiled by the Health Care Financing Administration (HCFA), a division of HHS. HCFA contracts with states to conduct annual inspections of nursing homes and to respond to nursing home complaints. During these inspections, the inspection team interviews a sample of residents, staff members, and family members. The inspection team also reviews a sample of clinical records. Violations of federal standards observed by the inspectors are cited by the inspection

¹⁶HHS Office of Inspector General, *Nursing Home Survey and Certification* (Mar. 1999).

¹⁷HHS, *Report to Congress: Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes* (Summer 2000).

team, reported by the states to HCFA, and compiled in the OSCAR and complaint databases.¹⁸

The OSCAR and complaint databases use a ranking system in order to identify the violations that pose the greatest risk to residents. The rankings are based on the severity (degree of actual harm or risk to residents) and the scope (the number of residents affected) of the violation. As shown in Table 1, each violation is given a letter rank, A to L, with A being the least serious (an isolated violation that poses minimal risks to residents) and L being the most serious (a widespread violation that causes or has the potential to cause death or serious injury). Homes with violations in categories A, B, or C are considered to be in “substantial compliance” with the law. Homes with violations in categories D, E, or F have the potential to cause “more than minimal harm” to residents. Homes with violations in categories G, H, or I are causing “actual harm” to residents. And homes with violations in categories J, K, or L are causing (or have the potential to cause) death or serious injury to residents.

Table 1: HCFA's Scope and Severity Grid for Nursing Home Violations

Severity of Deficiency	Scope of Deficiency		
	<i>Isolated</i>	<i>Pattern of Harm</i>	<i>Widespread Harm</i>
Potential for Minimal Harm	A	B	C
Potential for More Than Minimal Harm	D	E	F
Actual Harm	G	H	I
Actual or Potential Death/Serious Injury	J	K	L

To assess the compliance status of Texas nursing homes, this report analyzed the OSCAR database to determine the results of the most recent annual inspection of each nursing home in Texas. These inspections were conducted between March 1998 and August 2000.¹⁹ In addition, the report analyzed the complaint database to determine the results of any nursing home complaint investigations that were conducted during this same time period. Following the approach used by GAO in its reports on nursing home conditions, this report focused primarily on violations ranked in category G or above.

¹⁸In addition to tracking the violations at each home, the OSCAR database compiles the following information about each home: the number of residents and beds; the type of ownership (*e.g.*, for-profit or nonprofit); whether the home accepts patients on Medicare and/or Medicaid; and the characteristics of the resident population (*e.g.*, number of incontinent patients, number of patients in restraints). To provide public access to the information in the OSCAR database, HCFA maintains a website (<http://www.medicare.gov/nhcompare/home.asp>) where the public can obtain data about individual nursing homes.

¹⁹No inspection data was available after January 1998 for sixteen Texas nursing homes in the OSCAR database. This lack of recent inspection data appears to indicate that these nursing homes are no longer in operation. As a result, they were excluded from this analysis.

These are the violations that cause actual harm to residents or have the potential to cause death or serious injury.

B. Determination of Staffing Levels

Data on the staffing levels in Texas nursing homes also comes from the OSCAR database. During the annual inspections, the nursing homes provide the state inspectors with data on their staffing levels during the two weeks prior to the inspections.²⁰ This information on staffing levels is then reported by the states to HCFA and entered into the OSCAR database.²¹

The report compared these staffing levels to the preferred minimum staffing levels identified by HHS. These preferred minimum staffing levels require 3.45 hours of nursing care for each resident each day, with 2.0 hours of this care provided by nursing assistants, 1.0 hours by registered or licensed nurses, and 0.45 hours by registered nurses. HHS found that for nursing homes that met these preferred minimum staffing levels, “quality of care was improved across the board.”²²

²⁰According to some experts, this data may overestimate the number of staff involved in resident care. Researchers have suggested that nursing homes may increase their staff during the period around the state inspection, meaning that reported staffing levels would be higher than the staffing levels found at the nursing homes during most periods of the year. Charlene Harrington, et al., *Nursing Home Staffing and Its Relationship to Deficiencies*, 17 (Aug. 1999). HHS research also suggests that the OSCAR data may overestimate actual staffing levels in some instances. HHS compared the staffing data in the OSCAR database with the staffing data contained in “Medicare Cost Reports,” which are audited cost statements that are prepared by nursing homes in order to receive Medicare payments. Although the HHS analysis found that in the aggregate, average staffing levels in the OSCAR database and in the Medicare Cost Reports were similar, the analysis also found that for homes with lower staffing levels, the staffing levels reported in the OSCAR database were higher than the staffing levels reported in the Medicare Cost Reports. This indicates that for homes with lower staffing levels, the OSCAR database could overestimate actual staffing levels. *See Report to Congress, supra* note 17, at 8-7, 8-8.

²¹In order to ensure the accuracy of the data for this comparison, HCFA analysts eliminated data from all nonhospital-based nursing homes with less than 50% occupancy; all facilities that reported more residents than beds; all facilities that reported more than 24 hours of daily care by registered nurses, licensed nurses, or nursing assistants per resident; and the 2% of facilities that reported the highest staffing by registered nurses, licensed nurses, or nursing assistants. In addition, all nursing homes that reported staffing levels of less than 0.5 hours per resident or reported no registered or licensed nursing staff were eliminated. *See Report to Congress, supra* note 17.

²²*See Report to Congress, supra* note 17, at 12-4.

C. Analysis of State Inspection Reports

In addition to analyzing the data in the OSCAR database, this report analyzed a sample of the actual inspection reports prepared by state inspectors of nursing homes in Texas. These inspection reports, prepared on a HCFA form called “Form 2567,” contain the inspectors’ documentation of the conditions at the nursing home.

The minority staff selected for review the inspection reports from a random sample of 34 nursing homes in Texas that were cited for violations. To obtain geographical diversity, the staff randomly identified two nursing homes with actual harm violations from each of 17 congressional districts within Texas. If there were not two nursing homes with actual harm violations in a congressional district, nursing homes with multiple potential-to-harm violations were identified instead. In total, the minority staff identified 29 nursing homes with actual harm violations and 5 nursing homes with multiple, potential-to-harm violations.

For each of these homes, the most recent annual inspection report was obtained from the Texas Department of Human Services. These reports were then reviewed to assess the severity of the violations documented by the state inspectors.

D. Interpretation of Results

The results presented in this report are representative of current conditions in Texas nursing homes as a whole. In the case of any individual home, however, current conditions may differ from those documented in the most recent inspection report, especially if the report is more than few months old. Nursing home conditions can change over time. New management or enforcement activities can rapidly improve conditions; other changes can lead to sudden deterioration. According to GAO, many nursing homes with serious deficiencies exhibit a “yo-yo pattern” of noncompliance and compliance: after a home is cited for deficiencies, it briefly comes into compliance to avoid fines or other sanctions, only to slip into noncompliance after the threat of sanctions is removed.²³

For this reason, this report should be considered a representative “snapshot” of nursing home conditions in Texas. It is not intended to be -- and should not be interpreted as -- an analysis of current conditions in any individual nursing home.

The report should also not be used to compare violation rates in Texas nursing homes with violation rates in other states. Available data allow comparisons among states to be made based on Medicaid reimbursement rates and nursing home staffing levels. But, the data about violation rates comes

²³GAO, *Nursing Homes: Additional Steps Needed*, *supra* note 12, at 12-14.

from state inspections that can vary considerably from state to state in their thoroughness and ability to detect violations. According to GAO, “[c]onsiderable inter-state variation still exists in the citation of serious deficiencies.”²⁴ For this reason, comparing violation rates among states can be misleading.

III. HEALTH AND SAFETY VIOLATIONS IN TEXAS NURSING HOMES

There are 1,230 nursing homes in the Texas that accept residents whose care is paid for by Medicaid or Medicare. These nursing homes have 125,676 beds that were occupied by 86,286 residents during the most recent round of annual inspections. Medicaid paid the cost of care for the majority of these residents, 64,319. Medicare paid the cost of care for 6,808 residents. Eighty-one percent of the nursing homes in Texas are private, for-profit nursing homes.

The results of this investigation indicate that the conditions in these nursing homes often fall substantially below federal standards. Many residents are not receiving the care that their families expect and that federal law requires.

A. Prevalence of Violations

Only 16% of the nursing homes in Texas were found by the state inspections to be in full or substantial compliance with federal standards of care. The other 84% of the nursing homes in the state (1,044 out of 1,230) had at least one violation that had the potential to cause more than minimal harm to their residents. Over 650 nursing homes -- more than one out of every two nursing homes in Texas -- had violations that caused actual harm to residents or had the potential to cause death or serious injury. Table 2 summarizes these results.

Table 2: Nursing Homes in Texas Have Numerous Violations that Place Residents at Risk

Most Severe Violation Cited by Inspectors	Number of Homes	Percent of Homes	Number of Residents
Complete Compliance (No Violations)	105	9%	3,620
Substantial Compliance (Risk of Minimal Harm)	81	7%	3,634
Potential for More than Minimal Harm	364	30%	23,257
Actual Harm to Residents	583	47%	47,668
Actual or Potential Death/Serious Injury	97	8%	8,107

Many nursing homes had multiple violations. State inspectors found a total of 13,505 violations in Texas nursing homes that were not in compliance with federal standards, an average of 12.9 violations in

²⁴GAO, *Nursing Homes: Sustained Efforts Are Essential to Realize Potential of the Quality Initiatives*, 16 (Sept. 2000).

each noncompliant nursing home.

B. Prevalence of Violations Causing Actual Harm to Residents

According to the GAO, some of the greatest safety concerns are posed by nursing homes with violations that cause actual harm to residents or have the potential to cause death or serious injury. These are homes with violations ranked at the G-level or above. As shown in table 2, over 650 nursing homes in Texas had violations that fell into this category. In total, 55% of the nursing homes in Texas were cited for violations that caused actual harm to residents or worse. These homes serve 55,775 residents and are estimated to receive over \$680 million in federal and state funds each year.

Many Texas nursing homes had multiple actual harm violations. In total, 454 homes – more than one out of every three – had at least two violations that caused actual harm or had the potential to cause death or serious injury to residents.²⁵

C. Most Frequently Cited Violations Causing Actual Harm

During the most recent annual inspections and complaint investigations, state inspectors cited the nursing homes in Texas for 2,421 violations that caused actual harm to residents. These violations fell into 101 different deficiency areas.

The most common actual harm violation in Texas nursing homes was the failure to ensure that residents receive proper supervision and assistance devices to prevent falls and accidents. These violations are serious because falls and accidents can result in severe injuries and even death. A total of 373 nursing homes in Texas were cited for actual harm violations in this category.

The second most frequently cited violation causing actual harm involved pressure sores. Pressure

²⁵Actual harm violations were common in both the annual inspection reports and the reports from complaint investigations. During the most recent annual inspections, which were conducted from March 1998 to August 2000, 26.1% of the nursing homes in Texas were cited for violations that caused actual harm to residents or had the potential to cause death or serious injury. During the same period, 47.1% of the nursing homes in Texas were cited for violations that caused actual harm or had the potential to cause death or serious injury during complaint investigations. A recent GAO report reached a similar finding about the results of annual inspections of Texas nursing homes, reporting that 24.9% of Texas nursing homes were cited for actual harm or immediate jeopardy violations during annual inspections between January 1999 and July 2000. The GAO report did not analyze violations rates in complaint investigations. *Nursing Homes: Sustained Efforts Are Essential to Realize Potential of the Quality Initiatives*, supra note 24, at 18.

sores are open sores or bruises on the skin (usually on the hips, heels, buttocks, or bony areas) which result from friction or pressure on the skin. Not only are pressure sores painful, but they can lead to infection, increased debilitation, damage to muscle and bone, and even death. According to nursing home experts, good nursing care can often prevent pressure sores through simple precautions, such as regular cleaning, application of ointments and dressings, and frequent turning of residents to relieve pressure on one part of the body. Despite the availability of these precautions, 317 nursing homes in Texas were cited for actual harm violations for their failure to prevent or properly treat pressure sores.

Another common actual harm violation involved the failure to ensure that residents receive nutritional diets. Under federal regulations, nursing homes must ensure that a resident “[m]aintains acceptable parameters of nutritional status, such as body weight and protein levels” and “[r]eceives a therapeutic diet when there is a nutritional problem.”²⁶ A total of 177 nursing homes in Texas were cited for actual harm violations in this category.

Other actual harm violations cited multiple times included: the failure to prevent physical, mental, or verbal abuse of residents (82 homes); the failure to provide sufficient staff (65 homes); and the failure to keep residents free from physical restraints (24 homes).

D. Potential for Underreporting of Violations

The report’s analysis of the prevalence of nursing home violations was based in large part on the data reported to HCFA in the OSCAR database. According to GAO, even though this database is “generally recognize[d] . . . as reliable,” it may “understate the extent of deficiencies.”²⁷ One problem, according to GAO, is that “homes could generally predict when their annual on-site reviews would occur and, if inclined, could take steps to mask problems otherwise observable during normal operations.”²⁸ A second problem is that state inspectors often miss significant violations. A recent GAO report found that when federal inspectors inspect nursing homes after state inspectors, the federal inspectors find more serious care problems than the state inspectors in 70% of the nursing homes. The federal inspectors also find many more violations of federal health and safety standards.²⁹ Consequently, the prevalence of violations causing potential or actual harm to residents may be higher than what is reported in this study.

²⁶42 C.F.R. § 483.25(i).

²⁷GAO, *Nursing Homes: Additional Steps Needed*, *supra* note 12, at 30.

²⁸GAO, *California Nursing Homes: Care Problems Persist Despite Federal and State Oversight*, 4 (July 1998).

²⁹*Nursing Homes: Sustained Efforts Are Essential to Realize Potential of the Quality Initiatives*, *supra* note 24, at 43

IV. TEXAS REIMBURSEMENT RATES AND STAFFING LEVELS

The largest single source of payment for nursing home care is the joint, federal-state Medicaid program. Unlike Medicare rates which are established by the federal government, individual states determine the amount of reimbursement under Medicaid. Both nursing home operators and resident advocates agree that the Medicaid reimbursement rate in Texas is too low and may adversely impact the quality of care provided to residents.³⁰

Texas ranks 44th in the country in the amount of its Medicaid reimbursement.³¹ The current reimbursement rate in Texas is only \$81.22 a day per patient.³² According to HCFA data, the federal government pays approximately 62% of this amount, with the state of Texas paying the remainder.³³ Total Medicaid payments to Texas nursing homes were \$1.56 billion in 1999.³⁴

Although Texas's current Medicaid rate represents a 3.7% increase from the 1999 rate, it is still over \$20 below the national average.³⁵ Informed observers have stated that the increase does not offset rising labor and liability insurance costs.³⁶ In fact, according to the nursing home industry, the Texas Medicaid rate is \$40 less than the daily cost of caring for the average Medicaid patient.³⁷ Currently, 235 nursing homes in Texas -- 22% of all nursing homes -- are in bankruptcy, with 29,268 residents living in

³⁰*See Nursing-Home Group Calls for Aid*, Dallas Morning News (Oct. 3, 2000); *State of Elder Care Draws Criticism*, Dallas Morning News (July 31, 2000); *Nursing Home Operators Want Bigger Increase in Medicaid Payments*, Associated Press (Feb. 11, 2000).

³¹Data from Texas Health Care Association. This figure excludes the District of Columbia.

³²Texas Department of Human Services, *Texas Medicaid Nursing Facility Case Mix Rates* (available at <http://www.dhs.state.tx.us/programs/rad/NF/nfrates.html>).

³³Medicaid Financial Management -- Medical Assistance Payments, Fiscal Year 1999.

³⁴*Id.*

³⁵Data from Texas Health Care Association.

³⁶*Boost in Aid Sought for Staffing at Nursing Homes*, Austin American-Statesman (July 28, 2000); *Texas Nursing Home Financial Crisis Seen*, New York Times (July 4, 2000).

³⁷*Sonora Nursing Home Closes as Pleas to Save It Fall Short*, San Antonio Express-News (Sept. 15, 2000).

these facilities.³⁸

As a result of the low reimbursement rate, Texas nursing homes have low levels of nursing home staff. Texas ranks 40th among the 50 states in the median number of daily hours of nursing care provided to residents, and 46th among the 50 states in the median number of daily hours of care provided by registered nurses.³⁹ In Texas, the median nursing home provides only 22 minutes of daily care by registered nurses to each resident. Nationally, the median home provides over one-half of an hour of care by registered nurses for each resident -- almost 50% more than the median nursing home in Texas.

The vast majority of nursing homes in Texas fail to meet the preferred minimum staffing levels identified by HHS. Overall, 1,079 of the 1,157 nursing homes in Texas for which there is adequate staffing data (93%) failed to meet one or more of the preferred minimum staffing levels identified by HHS in their most recent annual inspections.

HHS identified a preferred minimum staffing level of 1.45 hours of daily care for each resident by registered and licensed nurses, with at least 0.45 hours of this care provided by registered nurses. One thousand and thirteen of the nursing homes in Texas (88%) failed to meet this preferred minimum staffing level. In addition, HHS also identified a preferred minimum staffing level of 2.0 hours of daily care for each resident by nursing assistants. A total of 719 homes in Texas (62%) did not provide this level of care.

V. DOCUMENTATION OF VIOLATIONS IN THE STATE INSPECTION REPORTS

Representatives for the nursing home industry have alleged that the actual harm violations cited by state inspectors are often insignificant. The American Health Care Association (AHCA), which represents for-profit nursing homes, has stated that the “overwhelming majority of nursing facilities in America meet or exceed government standards for quality.”⁴⁰ AHCA also claims that deficiencies cited by inspectors are often “technical violations posing no jeopardy to residents” and that the current inspection system “has all

³⁸American Health Care Association, *Real Cuts, Real People: The Facts* (advertisements appearing in Roll Call (Oct. 9, 2000; Oct. 12, 2000)).

³⁹Committee on Government Reform, Minority Staff, *Analysis of Nursing Home Staffing Levels by State* (Oct. 2000).

⁴⁰Statement of Linda Keegan, Vice President, AHCA, regarding Senate Select Committee on Aging Forum: “Consumers Assess the Nursing Home Initiatives” (Sept. 23, 1999).

the trademarks of a bureaucratic government program out of control.’⁴¹ As an example of such a technical violation, AHCA has claimed that the cancellation of a painting class would constitute a serious deficiency.⁴²

At the national level, these assertions have proven to be erroneous. In response to AHCA’s criticisms, GAO undertook a review of 201 random actual harm violations from 107 nursing homes around the country. GAO found that nearly all of these deficiencies posed a serious harm to residents. Of the 107 homes surveyed, 98% were found to have a deficiency that caused actual harm, including “pressure sores, broken bones, severe weight loss, burns, and death.”⁴³ GAO found that many of the deficiencies affected multiple residents and that two-thirds of these homes were cited for other violations causing actual harm or worse in previous or subsequent annual inspections.⁴⁴

This report undertook a similar analysis at the state level. To assess the severity of violations at nursing homes in Texas, the minority staff examined the state inspection forms for 29 nursing homes cited for actual harm violations and 5 nursing homes cited for multiple, potential-to-harm violations. These inspection forms contained numerous examples of actual harm violations that involved serious neglect and mistreatment of residents. Moreover, the inspection reports documented many other serious violations that would be of great concern to families, but were not classified as causing actual harm, indicating that serious deficiencies can exist at nursing homes cited for potential-to-harm violations.

The following discussion summarizes some examples of the violations documented in the inspection reports.

⁴¹AHCA Press Release, *AHCA Responds to Release of General Accounting Office Study on Enforcement* (March 18, 1999).

⁴²Letter from Sen. Charles E. Grassley to William Scanlon (GAO), 1 (May 27, 1999).

⁴³GAO, *Nursing Homes: Proposal to Enhance Oversight*, *supra* note 13, at 6.

⁴⁴*Id.* at 7. In another study in August 1999, GAO examined several examples provided by AHCA of serious deficiencies cited by state inspectors that, according to AHCA, were of questionable merit. For those deficiencies which it had sufficient facts to analyze, GAO concluded that the regulatory actions taken against the homes were merited. The GAO report stated: “In our analysis of the cases that AHCA selected as ‘symptomatic of a regulatory system run amok,’ we did not find evidence of inappropriate regulatory actions.” Letter from Kathryn G. Allen (GAO) to Sen. Charles E. Grassley, 2 (Aug. 13, 1999).

A. Failure to Prevent or Properly Treat Pressure Sores

One of the most common actual harm violations in Texas nursing homes involves the improper prevention and treatment of pressure sores. This is a serious violation because pressure sores, if untreated or not properly treated, can lead to infection, muscle and bone damage, and even death.

The 34 inspection reports reviewed for this analysis documented a wide array of violations involving pressure sores. The violations included: leaving immobile residents in the same position instead of regularly repositioning them, as required by standard medical procedures; failing to provide protective devices to residents at risk of developing pressure sores; and failing to properly monitor and treat existing sores on residents.⁴⁵

State inspectors at one facility observed a number of residents with untreated pressure sores. One resident with six pressure sores on his buttocks was observed to be “lying in dry feces which was all over his pad and gown.” There was also feces on the dressing covering the sores. Another resident with multiple pressure sores on her heels was found lying in semi-dried feces with her feet directly on the mattress despite a sign near the bed specifically stating that her heels should be kept off the mattress. One of the residents had an open sore on his heel and was observed being pushed around the facility in a wheelchair with his feet dragging on the floor.⁴⁶

At another nursing home, a resident whose left foot had been amputated due to pressure sores did not receive proper treatment for the pressure sores on his right foot. As a result, the resident had a severe pressure sore on his outer ankle and another pressure sore on his foot that could not be evaluated because of the large amount of yellow and black “dead tissue.”⁴⁷

B. Failure to Provide Adequate Nutrition and Hydration

The failure to provide adequate food and liquids to residents is another common actual harm violation in Texas nursing homes. Several examples of these violations were documented in the inspection reports:

⁴⁵HCFA Form 2567 for Nursing Home in Friendswood (G-level violation) (Apr. 27, 2000); HCFA Form 2567 for Nursing Home in San Antonio (G-level violation) (Jan. 28, 2000); HCFA Form 2567 for Nursing Home in Tyler (L-level violation) (Dec. 23, 1999); HCFA Form 2567 for Nursing Home in Houston (H-level violation) (Aug. 23, 1999).

⁴⁶HCFA Form 2567 for Nursing Home in Tyler (L-level violation) (Dec. 23, 1999).

⁴⁷HCFA Form 2567 for Nursing Home in Temple (D-level violation) (Feb. 10, 2000).

- A female resident at one facility lost 75 lbs. in one year. Upon investigating, the state inspectors learned that the facility failed to adequately monitor the resident’s nutritional status and failed to encourage the resident to eat. While the inspectors were present, they observed that a nurse did not bring the resident orange juice that was ordered by her physician, stating, “Oh, she won’t drink it.”⁴⁸
- At another nursing home, a resident weighed only 75 lbs. Upon investigating, the inspectors found that no nutritional assessment had been done for months.⁴⁹
- C At the same facility, state inspectors found that there was no monitoring of the fluid intake of several residents. As a result, three residents had to be hospitalized for dehydration, including one resident who was hospitalized twice in one month.⁵⁰

C. Failure to Prevent Falls or Accidents

The sample of state inspection reports reviewed for this report documented several instances of preventable falls and accidents, the most common type of actual harm violation in Texas nursing homes. At one facility, for example, multiple residents suffered serious injuries due to falls, including head injuries, hip fractures, and leg injuries. One resident alone was involved in 31 accidents in an eight-month period.⁵¹

At another nursing home, state inspectors found that the facility failed to implement protective measures for a male resident with a history of falls. The resident broke his femur after one fall -- an injury that was not identified by the facility for nearly two weeks.⁵²

In some cases, residents in Texas nursing homes were injured while being transferred by staff members. At one nursing home, a resident suffered a leg fracture when a nurse aide dropped the resident on the ground while trying to transfer the resident by herself. State inspectors found that the resident’s care plan clearly stated that two nurse aides were required to transfer the resident.⁵³

⁴⁸HCFA Form 2567 for Nursing Home in Fort Worth (G-level violation) (Jan. 7, 2000).

⁴⁹HCFA Form 2567 for Nursing Home in Tyler (K-level violation) (Dec. 23, 1999).

⁵⁰HCFA Form 2567 for Nursing Home in Tyler (J-level violation) (Dec. 23, 1999).

⁵¹HCFA Form 2567 for Nursing Home in Longview (H-level violation) (Dec. 16, 1999).

⁵²HCFA Form 2567 for Nursing Home in Houston (G-level violation) (Feb. 17, 2000).

⁵³HCFA Form 2567 for Nursing Home in Austin (H-level violation) (Oct. 22, 1999).

D. Improper Use of Physical and Chemical Restraints

One of the major objectives of the 1987 nursing home law was to end the improper use of physical and chemical restraints. Although progress has been made in this area nationally, the inspection reports documented that improper restraints continue to be a serious problem in Texas.

Texas inspectors cited several of the 34 facilities whose records were reviewed for using physical restraints or sedating medications without medical justification or without first attempting less restricting alternatives.⁵⁴ For example:

- At one nursing home, a resident was observed with both hands covered with socks and his wrists crossed and tied to the bed with wrist restraints. He was only released from the restraints when he was turned every two hours; the socks were only removed when he was bathed. According to a nurse, the resident was restrained in this manner to prevent him from scratching and injuring himself. But the state inspectors found that the facility had not tried to implement a less restrictive restraint.⁵⁵
- C At another facility, a resident who was independent, continent, and non-aggressive when she was admitted became “totally dependent, debilitated and unresponsive” over a four-month period. Inspectors discovered that soon after the resident was admitted, the facility gave her an antipsychotic medication without any supporting diagnosis. As the resident’s condition worsened, the facility simply increased the dosage of the antipsychotic medication, never evaluating the cause of the decline.⁵⁶
- At a third nursing home, a resident who was taking five different antipsychotic and antidepressant medications was so sedated that she had her eyes closed and her head down during meals. Upon investigating, the state inspectors found that the resident did not have sufficient symptoms to justify use of these drugs.⁵⁷

⁵⁴HCFA Form 2567 for Nursing Home in Clarksville (D-level violation) (Jan. 26, 2000); HCFA Form 2567 for Nursing Home in Longview (G-level and L-level violations) (Dec. 16, 1999).

⁵⁵HCFA Form 2567 for Nursing Home in Cameron (D-level violation) (Mar. 23, 2000).

⁵⁶HCFA Form 2567 for Nursing Home in Dallas (G-level violation) (Sept. 24, 1999).

⁵⁷HCFA Form 2567 for Nursing Home in Longview (G-level violation) (Dec. 16, 1999).

E. Failure to Protect Residents from Abuse

Some of the state inspection reports found that nursing homes were unable to protect vulnerable residents from abuse. For example, a resident at one facility was stabbed in the head with silverware by another resident. Less than a month later, the same abusive resident hit another resident, causing that resident to fall and fracture his hip -- an injury that required hospitalization. Facility records indicated that the abusive resident was involved in a total of 24 incidents of physically aggressive behavior over a five-month period. When the state inspectors investigated, they learned that the facility failed to take appropriate measures to protect residents from abuse.⁵⁸

At another nursing home, residents were sexually abused by other residents. On two occasions, a male resident was found fondling female residents who were described as confused. Another male resident was found squeezing a female resident's breast. State inspectors found that the facility did not have an effective system in place to protect residents from sexual abuse.⁵⁹

F. Failure to Provide Proper Medical Care

The inspection reports contained many examples of nursing homes failing to provide necessary medical care. Nursing homes were found to have ignored obvious warning signals, failed to notify physicians of changes in residents' medical conditions, and improperly administered medications.

An audit of the medical directives for residents at one facility revealed errors in the instructions for 46 out of 109 residents. Inspectors found that many residents who were supposed to have "full code" orders, meaning that they should receive CPR in an emergency, had "do not resuscitate" orders.⁶⁰

Another facility failed to provide necessary psychiatric counseling to multiple residents, sometimes months after the physician ordered psychiatric counseling. The director of nursing described the facility's treatment program as "a system that isn't working."⁶¹

During their inspection of a third nursing home, state inspectors witnessed a resident having a seizure and asked staff members when a physician would be called. A nurse responded that they "don't notify the doctor because he doesn't do anything anyhow." But when the inspectors interviewed the

⁵⁸HCFA Form 2567 for Nursing Home in Houston (L-level violation) (Aug. 23, 1999).

⁵⁹HCFA Form 2567 for Nursing Home in Dallas (H-level violation) (Oct. 11, 1999).

⁶⁰HCFA Form 2567 for Nursing Home in Baytown (E-level violation) (March 9, 2000).

⁶¹HCFA Form 2567 for Nursing Home in Dallas (H-level violation) (Oct. 11, 1999).

physician, he said that the resident's seizure activity was unusual and he should have been notified.⁶²

In yet another nursing home, the state inspectors met a young, alert male resident suffering paralysis of all four limbs. They found he had been left without a working motorized wheelchair for over a year.⁶³

There were numerous examples of improper medication documented in the inspection reports:

- At one facility, inspectors observed a resident "crying and screaming with pain." Upon investigation, the inspectors learned that the facility had failed to provide the resident with pain medication for an entire month.⁶⁴
- At another facility, state inspectors had to intervene to prevent a nurse from administering an undiluted dose of potassium chloride, which can cause serious gastric complications.⁶⁵
- In many instances, state inspectors found that nursing homes failed to administer medication in accordance with physician or manufacturer instructions.⁶⁶

In one case described in the inspection reports, the failure to provide proper medical care contributed to the death of a resident. In this instance, a resident wandered out of the facility and fell in the

⁶²HCFA Form 2567 for Nursing Home in Ennis (G-level violation) (Oct. 14, 1999).

⁶³HCFA Form 2567 for Nursing Home in Pasadena (D-level violation) (Dec. 3, 1999).

⁶⁴HCFA Form 2567 for Nursing Home in Friendswood (E-level violation) (May 14, 1999). A more recent inspection report identified additional violations relating to untreated pressure sores and medication errors. HCFA Form 2567 for Nursing Home in Friendswood (E-level violation) (Apr. 27, 2000).

⁶⁵HCFA Form 2567 for Nursing Home in Houston (E-level violation) (Feb. 17, 2000).

⁶⁶HCFA Form 2567 for Nursing Home in Friendswood (D-level and E-level violations) (Apr. 27, 2000); HCFA Form 2567 for Nursing Home in Baytown (March 9, 2000) (E-level violation); HCFA Form 2567 for Nursing Home in Temple (D-level violation) (Feb. 10, 2000); HCFA Form 2567 for Nursing Home in San Antonio (D-level violation) (Jan. 28, 2000); HCFA Form 2567 for Nursing Home in Pasadena (E-level violation) (Dec. 3, 1999); HCFA Form 2567 for Nursing Home in El Paso (B-level violation) (Apr. 9, 1999); HCFA Form 2567 for Nursing Home in Granbury (D-level violation) (May 21, 1999); HCFA Form 2567 for Nursing Home in Houston (G-level violation) (July 23, 1999) (a change in ownership is pending at this home); HCFA Form 2567 for Nursing Home in Baytown (D-level violation) (Oct. 7, 1999).

parking lot, sustaining a head injury. Her condition declined sharply after the fall. She was no longer able to walk safely or go to the bathroom, and she was extremely lethargic and complained of a headache. Despite her clearly declining condition, the facility did nothing to assess her or address the condition. Twelve days after the fall, she was found unresponsive and died soon thereafter.⁶⁷

G. Failure to Provide Basic Care

Federal standards require that nursing homes provide residents with “the necessary services to maintain good . . . grooming and personal and oral hygiene.”⁶⁸ Nursing homes are also required to provide residents with a clean and safe living environment.⁶⁹ These standards reflect the expectations of families that residents will be properly cared for and cleaned.

The inspection reports documented, however, that even this basic level of care was not being provided by many nursing homes. For example:

- At one facility, state inspectors observed that “[a] strong odor of urine was evident upon entry into the facility.” Inspectors observed residents wearing briefs that “were saturated with urine,” leaving the residents with “macerated” skin. A resident’s room had a “strong odor of stool.”⁷⁰
- At another facility, state inspectors found that one-third of the residents that they examined had not received proper cleaning and grooming. They found one totally dependent and incontinent male resident whose pants were “soaked wet down to both legs.” The resident smelled of a “strong ammonia odor,” his soiled pants had already begun to dry, and his skin was red and excoriated.⁷¹
- At a third facility, inspectors saw residents lying in urine and dried feces. One resident who was wet with urine and had dried feces on him had four pressure sores on his buttocks. The nurse aide had to scrub the resident’s buttock to remove the dried feces, causing the resident to cry out, “it hurts, it burns.”⁷²

⁶⁷HCFA Form 2567 for Nursing Home in El Paso (G-level violation) (Oct. 16, 1999).

⁶⁸42 C.F.R. § 483.25(a)(3).

⁶⁹42 C.F.R. § 483.70(h).

⁷⁰HCFA Form 2567 for Nursing Home in Austin (B-level violation) (Oct. 22, 1999).

⁷¹HCFA Form 2567 for Nursing Home in Houston (E-level violation) (Feb. 17, 2000).

⁷²HCFA Form 2567 for Nursing Home in Tyler (F-level violation) (Dec. 23, 1999).

When state inspectors visited other Texas nursing homes, they found unsafe living conditions. For example:

- At two nursing homes, the water in some bathrooms and showers was so hot that it could produce a first degree burn in five seconds and a second or third degree burn in 25 seconds.⁷³
- At another facility, inspectors found that the fire alarm system was disengaged. In the event of a fire, residents would not be notified, and the facility's smoke control features would not be activated. Inspectors found that the facility knew that the alarm was disengaged but had failed to promptly address the problem.⁷⁴
- At a third facility, inspectors found that contaminated syringes were protruding from a cart left in a hallway frequented by cognitively impaired residents.⁷⁵

H. Failure to Provide Adequate Staffing

An underlying reason for the poor care provided by some Texas nursing homes is inadequate staffing. As described above, Texas nursing homes have virtually the lowest staffing levels in the nation. The inspection reports documented several examples of grossly deficient staffing.

At one nursing home, state inspectors found that only three nurse aides were on duty to care for 74 residents, 41 of whom were either totally dependent on staff or required assistance with toileting. As a result of the understaffing, inspectors found that resident were left in clothes "saturated with urine and/or soiled with feces," and unsupervised residents were allowed to fall and sustain serious injuries. Residents were also able to wander away from the facility because staff members said it was "not humanly possible" to supervise everyone.⁷⁶

At a second facility, state inspectors found that one nursing home was so understaffed that a single nurse aide was assigned to care for 26 residents in one unit of the home. The aide was responsible for providing up to ten showers each day, providing other residents with bed baths, serving meal trays, assisting residents with eating, transferring residents, and providing incontinence care. When the state

⁷³HCFA Form 2567 for Nursing Home in Clarksville (J-level violation) (Jan. 26, 2000); HCFA Form 2567 for Nursing Home in Graham (F-level violation) (Dec. 22, 1999).

⁷⁴HCFA Form 2567 for Nursing Home in San Antonio (F-level violation) (Sept. 22, 1999).

⁷⁵HCFA Form 2567 for Nursing Home in San Antonio (E-level violation) (Jan. 28, 2000).

⁷⁶HCFA Form 2567 for Nursing Home in Austin (H-level violation) (Oct. 22, 1999).

inspectors interviewed residents, they learned that residents were often left in bed for long periods of time, residents were not regularly bathed, residents were not assisted with eating, and linen was not changed.⁷⁷

V. CONCLUSION

The 1987 nursing home law was intended to stop abuses in nursing homes by establishing stringent federal standards of care. Although the law and its implementing regulations require appropriate standards of care, compliance by Texas nursing homes has been poor. This report reviewed the OSCAR and complaint databases and a sample of actual state inspections reports. The same conclusion emerges from both analyses: many Texas nursing homes are failing to provide the care that the law requires and that families expect. The causes of the poor conditions in Texas nursing homes include the low Medicaid reimbursement rate established by the state and the low level of nursing home staffing.

⁷⁷HCFA Form 2567 for Nursing Home in Baytown (E-level violation) (Jan. 15, 1999). A more recent inspection did not identify similar staffing problems but did identify other serious violations, including inadequate medical care and medication errors. HCFA Form 2567 for Nursing Home in Baytown (E-level violations) (March 9, 2000).